



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0200

Introduced 1/14/2009, by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-110.5 new
735 ILCS 5/15-1707 new

Amends the Code of Civil Procedure. Provides that in forcible entry or mortgage foreclosure evictions, personal property, which the sheriff deems has commercial value, which was not removed by the defendant from the premises shall be stored by the sheriff at a private storage facility for 30 days, with notice to the defendant personally served or sent by certified mail stating the name, address, and telephone number of the facility; description of the property; and a statement that unless the storage fee is paid within 30 days, the property will be sold or otherwise disposed of. Provides that a sale shall take place not sooner than 30 days after the notice and after a published advertisement that includes: a description of the property; the storage facility address; and the time, place, and manner of the sale or other disposition. Provides that the sale or other disposition shall take place not sooner than 3 days after the advertisement is published. Provides that any sale or other disposition of the property shall be held at the facility or nearest suitable place. Provides that before any sale or other disposition, the defendant may pay the amount necessary to satisfy the storage charges and redeem the personal property. Provides that upon the defendant's payment, the facility shall return the property, and thereafter the facility shall have no liability as to that property. Provides that a good faith purchaser of the property takes it free of any defendant's rights, despite any noncompliance with the Act. Makes other changes.

LRB096 02982 AJO 12996 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding
5 Sections 9-110.5 and 15-1707 as follows:

6 (735 ILCS 5/9-110.5 new)

7 Sec. 9-110.5. Eviction by sheriff; storage of unclaimed
8 personal property.

9 (a) If no stay is granted and the sheriff evicts a
10 defendant from any premises pursuant to a judgment entered
11 pursuant to this Article, so much of the personal property of
12 the defendant's that is not removed by the defendant and which,
13 in the sole discretion of the sheriff, is deemed to have
14 commercial value shall be delivered by the sheriff to a private
15 storage facility in the county for storage for a period of 30
16 days with notice to the defendant of the location of the stored
17 property.

18 (b) The notice to the defendant shall be delivered in
19 person or sent by certified mail to the last known address of
20 the defendant. The notice shall include:

21 (1) The name, street address, and telephone number of
22 the storage facility where the property is stored.

23 (2) A brief and general description of the personal

1 property stored. The description shall be reasonably
2 adequate to permit the person notified to identify it,
3 except that any container including, but not limited to, a
4 trunk, valise, or box that is locked, fastened, sealed, or
5 tied in a manner which deters immediate access to its
6 contents may be described as such without describing its
7 contents.

8 (3) A statement that unless the storage fee for the
9 property is paid within 30 days of the date that the notice
10 was mailed or delivered, the personal property will be
11 advertised for sale or other disposition, and will be sold
12 or otherwise disposed of at a specified time and place.

13 Any notice made pursuant to this Section shall be presumed
14 delivered when it is deposited with the United States Postal
15 Service and properly addressed with postage prepaid.

16 (c) After the expiration of the time given in the notice, a
17 sale or other disposition shall take place not sooner than 30
18 days after the notice was mailed or delivered and only after an
19 advertisement is published once in a newspaper of general
20 circulation where the storage facility is located. The
21 advertisement shall include:

22 (1) A brief and general description of the personal
23 property reasonably adequate to permit its identification
24 as provided for in division (b) (2) of this Section;

25 (2) The address of the storage facility; and

26 (3) The time, place, and manner of the sale or other

1 disposition.

2 If there is no newspaper of general circulation where the
3 storage facility is located, the advertisement shall be posted
4 at least 7 days before the date of the sale or other
5 disposition in not less than 2 conspicuous places in the
6 neighborhood where the storage facility is located. The sale or
7 other disposition shall take place not sooner than 3 days after
8 the advertisement is published.

9 (d) Any sale or other disposition of the personal property
10 shall conform to the terms of the notice sent to the defendant
11 as provided for in this Section.

12 (e) Any sale or other disposition of the personal property
13 shall be held at the storage facility, or at suitable place
14 near the storage facility where the personal property is
15 stored.

16 (f) Before any sale or other disposition of personal
17 property pursuant to this Section, the defendant may pay the
18 amount necessary to satisfy the storage charges which shall be
19 calculated on the basis of the storage facility's regular 30
20 day storage charge for a similar amount of personal property,
21 and any advertisement expenses incurred under this Section, and
22 thereby redeem the personal property. Upon receipt of this
23 payment, the storage facility shall return the personal
24 property, and thereafter the storage facility shall have no
25 liability to any person with respect to this personal property.

26 (g) A purchaser in good faith of the personal property

1 sold, as provided in this Section, takes the property free of
2 any rights of the defendant, despite noncompliance by the
3 storage facility with the requirements of this Section.

4 (h) In the event of a sale under this Section, the storage
5 facility may satisfy the storage charges and advertisement
6 charges from the proceeds of the sale, and shall pay the
7 balance, if any, to the sheriff to defray the sheriff's
8 expenses in complying with this Section.

9 (i) Except as specifically provided herein, nothing in this
10 Section shall be construed as, in any manner, either impairing
11 or affecting the right of parties to create liens by special
12 contract or agreement or affecting or impairing other liens
13 arising at common law, in equity, by any statute of this State
14 or any other lien not provided for in this Section.

15 (735 ILCS 5/15-1707 new)

16 Sec. 15-1707. Possession eviction by sheriff; storage of
17 unclaimed personal property.

18 (a) If no stay is granted and the sheriff evicts a
19 defendant from any premises pursuant to a judgment entered
20 pursuant to this Article, so much of the personal property of
21 the defendant's that is not removed by the defendant and which,
22 in the sole discretion of the sheriff, is deemed to have
23 commercial value shall be delivered by the sheriff to a private
24 storage facility in the county for storage for a period of 30
25 days with notice to the defendant of the location of the stored

1 property.

2 (b) The notice to the defendant shall be delivered in
3 person or sent by certified mail to the last known address of
4 the defendant. The notice shall include:

5 (1) The name, street address, and telephone number of
6 the storage facility where the property is stored.

7 (2) A brief and general description of the personal
8 property stored. The description shall be reasonably
9 adequate to permit the person notified to identify it,
10 except that any container including, but not limited to, a
11 trunk, valise, or box that is locked, fastened, sealed, or
12 tied in a manner which deters immediate access to its
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15 (3) A statement that unless the storage fee for the
16 property is paid within 30 days of the date that the notice
17 was mailed or delivered, the personal property will be
18 advertised for sale or other disposition, and will be sold
19 or otherwise disposed of at a specified time and place.

20 Any notice made pursuant to this Section shall be presumed
21 delivered when it is deposited with the United States Postal
22 Service and properly addressed with postage prepaid.

23 (c) After the expiration of the time given in the notice, a
24 sale or other disposition shall take place not sooner than 30
25 days after the notice was mailed or delivered and only after an
26 advertisement is published once in a newspaper of general

1 circulation where the storage facility is located. The
2 advertisement shall include:

3 (1) A brief and general description of the personal
4 property reasonably adequate to permit its identification
5 as provided for in division (b) (2) of this Section;

6 (2) The address of the storage facility; and

7 (3) The time, place, and manner of the sale or other
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6 liability to any person with respect to this personal property.

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16 (i) Except as specifically provided herein, nothing in this
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18 or affecting the right of parties to create liens by special
19 contract or agreement or affecting or impairing other liens
20 arising at common law, in equity, by any statute of this State
21 or any other lien not provided for in this Section.